

REMARKS

35 USC §112

Claims 7-10 are rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner contends that the phrase “a plurality of” is cumbersome. The Applicant notes the Examiner’s point and has amended claims 7-10 accordingly.

35 USC §103(A)

Claims 1-10, 19-26 and 57 are rejected under 35 USC 103(a) as being unpatentable over Miller et al. (US 2003/0165656) in view of Grindstaff (US 5188892). The Applicant respectfully disagrees.

Claim 1 recites:

“A fiber material, comprising:

a first base fiber component comprising a first denier and a first luster component;

a second base fiber component comprising a second denier and a second luster component, wherein the first denier and the second denier are different and wherein the first luster component and the second luster component are different; and

a plurality of binder fibers.”

As recited in the claim, there are two base fiber components – each having a denier and a luster component, whereby the individual deniers and luster components are different. This difference in denier and luster components is novel and contributes to the superior quality of the products produced by the subject matter of the present application.

The Miller publication teaches a conventional carpet fiber and a binder material, wherein the yarn is subject to singeing to remove protruding fiber ends, and subjected to heat sufficient to melt the binder fiber. The Miller publication – as the Examiner admits – is silent as to the use of mixed denier and different luster components.

The Grindstaff reference does not cure the deficiencies of the Miller publication for the following reasons. First, the Grindstaff reference teaches that the polyester fibers – despite being

different deniers – are otherwise similar, e.g. in color and may be cut to a uniform length of staple. (See Column 4, lines 30-33). Second, the Applicant believes that the Examiner is misreading the Grindstaff reference. The Grindstaff reference is not teaching different luster components or color components, but is in fact teaching away from different luster components and/or color components. Grindstaff states that where normally different luster components or color components need to be used to distinguish different fibers in a carpet yarn, in the Grindstaff patent, the different deniers are visibly obvious and therefore, no color or luster differential needs to be initiated. (See Column 7, lines 8-16). Specifically, Grindstaff states: “unlike heather continuous filament yarns, for which the filaments must be colored to distinguish them, the DFI relates to the degree of intermingling of fibers of different deniers. Since the fiber of smaller denier is distinctly smaller of the fiber of larger denier, the difference will be immediately apparent, and **there is no need to color the fibers.**” (emphasis added). The Examiner points to Column 16 to show how Grindstaff discusses delustrant – but this reference is similar to those cited in the previous Office Action by the Examiner in that it isn’t relevant to the question of whether Grindstaff considered multiple luster components – which he clearly didn’t.

Therefore, the Applicant contends that the Grindstaff reference, in combination with the Miller publication, will not yield the subject matter of the present application, since its the multiple denier and luster components that provide the novelty of the fiber material. The Examiner needs to provide more information as to how one of ordinary skill in the art would read the teachings in Grindstaff, ignore the teachings regarding no color differential needed, and combine it with the Miller publication to arrive at the present application that requires both denier and luster differentials.

Based on this argument, claim 1 is allowable as being patentable over the Miller publication in view of Grindstaff. In addition, claims 2-10, 19-26 and 57 are also allowable as being patentable over the Miller publication in view of Grindstaff by virtue of their dependency on claim 1.

Claims 11-18 are rejected under 35 USC 103(a) as being unpatentable over Miller et al. (US 2003/0165656) in view of Grindstaff (US 5188892) as applied to claim 1 above, and further in view of Kobsa et al. (US 4559196). The Applicant respectfully disagrees.

Claim 1 recites:

“A fiber material, comprising:

a first base fiber component comprising a first denier and a first luster component;

a second base fiber component comprising a second denier and a second luster component, wherein the first denier and the second denier are different and wherein the first luster component and the second luster component are different; and

a plurality of binder fibers.”

As recited in the claim, there are two base fiber components – each having a denier and a luster component, whereby the individual deniers and luster components are different. This difference in denier and luster components is novel and contributes to the superior quality of the products produced by the subject matter of the present application.

The Miller publication teaches a conventional carpet fiber and a binder material, wherein the yarn is subject to singeing to remove protruding fiber ends, and subjected to heat sufficient to melt the binder fiber. The Miller publication – as the Examiner admits – is silent as to the use of mixed denier and different luster components.

The Grindstaff reference does not cure the deficiencies of the Miller publication for the following reasons. First, the Grindstaff reference teaches that the polyester fibers – despite being different deniers – are otherwise similar, e.g. in color and may be cut to a uniform length of staple.

(See Column 4, lines 30-33). Second, the Applicant believes that the Examiner is misreading the Grindstaff reference. The Grindstaff reference is not teaching different luster components or color components, but is in fact teaching away from different luster components and/or color components. Grindstaff states that where normally different luster components or color components need to be used to distinguish different fibers in a carpet yarn, in the Grindstaff patent, the different deniers are visibly obvious and therefore, no color or luster differential needs to be initiated. (See Column 7, lines 8-16). Specifically, Grindstaff states: “unlike heather continuous filament yarns, for which the filaments must be colored to distinguish them, the DFI relates to the degree of intermingling of fibers of different deniers. Since the fiber of smaller denier is distinctly smaller of the fiber of larger denier, the difference will be immediately apparent, and **there is no need to color the fibers.**” (emphasis added). The Examiner points to Column 16 to show how Grindstaff discusses delustrant – but this reference is similar to those cited in the previous Office Action by the Examiner in that it isn’t relevant to the question of whether Grindstaff considered multiple luster components – which he clearly didn’t.

Kobsa does not cure this defect in Grindstaff, because Kobsa only discloses a new method of dying carpets. Therefore, although Kobsa may combine with Grindstaff or the Miller publication to show how the fibers in Grindstaff or Miller may be dyed in a new method, Grindstaff and Miller do not disclose the combination of two base fiber components – where each base fiber component has a denier and a luster component different from that of the other base fiber component.

Therefore, the Applicant contends that the Grindstaff reference, in combination with the Miller publication and the Kobsa reference, will not yield the subject matter of the present application, since its the multiple denier and luster components that provide the novelty of the fiber material. The Examiner needs to provide more information as to how one of ordinary skill in the art would read the teachings in Grindstaff, ignore the teachings regarding no color differential needed, and combine it with the Miller publication and the Kobsa reference to arrive at the present application that requires both denier and luster differentials.

Based on this argument, claim 1 is allowable as being patentable over the Miller publication in view of Grindstaff and further in view of Kobsa. In addition, claims 11-18 are also allowable as being patentable over the Miller publication in view of Grindstaff and further in view of Kobsa by virtue of their dependency on claim 1.

REQUEST FOR ALLOWANCE

Claims 1-26 and 57 are pending in this application, and the Applicant respectfully requests that the Examiner reconsider all of the claims in light of the arguments presented and allow all current and pending claims.

Respectfully submitted,

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